

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**JOSE CLARIOT and FRANKLIN GUZMAN**

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**No. 3:08-cr-00023**

**Judge Nixon**

**ORDER**

Pending before the Court is the Government's Motion to Sever Defendants ("Motion"). (Doc. No. 373.) The Government states that it has consulted with counsel for Defendants Jose Clariot and Franklin Guzman and the parties agree that severance is appropriate in this case based on concerns about the admissibility of certain statements of each Defendant under *Bruton v. United States*. (*Id.*)

In *Bruton v. United States*, the Supreme Court held that that the introduction of a co-defendant's confession that implicated the defendant in a joint trial, "violated [the defendant]'s right of cross-examination secured by the Confrontation Clause of the Sixth Amendment." 391 U.S. 123, 126 (1968). The Supreme Court in *Bruton* also found that the violation could not be cured by an instruction to the jury to not use the confession against the non-confessing defendant. *Id.* at 129.

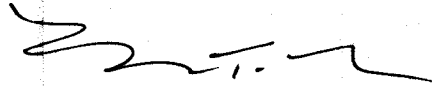
Here, the Government states that it intends to introduce statements made by Guzman in a post-arrest statement to police against him at trial, and that some of these statements would be inadmissible against Clariot under *Bruton*. (Doc. No. 373 at 1.) Similarly, the Government states that it intends to introduce statements made by Clariot in recorded jail phone calls against him at trial, and that some of these statements would be inadmissible against Guzman under *Bruton*. (*Id.*)

After reviewing the filings in this matter, the Court concludes that the joinder of Defendants for trial in this matter appears to simultaneously prejudice both defendants. Accordingly, pursuant

to Federal Rule of Criminal Procedure 14, the Court **GRANTS** the Motion and severs Clariot and Guzman for the purposes of trial. Trial will begin in United States v. Clariot as scheduled on **October 8, 2013, at 9:00 a.m.** Trial in United States v. Guzman is hereby **SCHEDULED** trial to begin **November 5, 2013, at 9:00 a.m.** The motions hearing scheduled for September 12, 2013, shall not be affected by this Order.

It is so ORDERED.

Entered this the 11 day of September, 2013.

  
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JOHN T. NIXON, SENIOR JUDGE  
UNITED STATES DISTRICT COURT